

UNITED STATES: ARTMENT OF COMMERCE Patent and Trademark Office Address: COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231 Paper 8

A9623/10		SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO
VINSON & ELRINS 1455 PERNISYLVANIA AVENUE MIS SUITE 800 This is in response to the Power of Attorney filed 1. The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record. 37 CFR 1.33. 2. The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record. (37 CFR 1.33.) 1. The Withdrawal as attorney in this application has been accepted. Future correspondence will be mailed in new address of record. 37 CFR 1.33. 1. The Power of Attorneys in this application has been accepted. Future correspondence will be mailed to below-noted additions be provided by 37 CFR 1.33. 1. The Power of Attorneys in this application is not accepted for the reason(s) checked below. 1. The Power of Attorneys in this application is not accepted for the reason(s) checked below. 1. The Power of Attorneys in this application is not accepted for the reason(s) checked below. 1. The Power of Attorneys in this application is not accepted for the reason(s) checked below. 1. The Power of Attorneys in this application is not accepted for the reason(s) checked below. 1. The Power of Attorneys in this application is not believe to assignee has intervened as provided and the certificate required by 37 CFR 3.73 (b) has not be received. 1. The Power of Attorneys is not registered to practice before the U. S. Patent Trademark Office.	_				29623/108
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Serial Number: 08/631,751

Art Unit: 1818

DETAILED ACTION

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-16, drawn to a microfabricated device, classified for example in class
 435, subclass 287.
- II. Claims 17-20, drawn to a method of using a device for identification and characterization of biomolecules, classified for example in class 435, subclass 4.
- 2. The inventions are distinct, each from the other because of the following reasons:
- 3. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the device product may be used for separation of biomolecules.
- 4. These inventions are distinct for the reason given above and have acquired a separate status in the art because of their recognized divergent subject matter as evidenced by their different classification. In addition, prior art searches require non-patent literature searches. The literature search for the invention of Group I would not be expected to reveal all the relevant references for the invention of Group II, and vice versa. Therefore, restriction for examination purposes as indicated is proper.
 - 5. Claim 2 is generic to a plurality of disclosed patentably distinct species comprising:

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 i. Claims 10-11, polynucleotides fixed by attachment of a terminal primary amine derivitive to glass

ii. Claim 12, polynucleotides fixed by attachment of a terminal bromoacetyl derivitive to platinum

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. A telephone call was made to Michael Sanzo on 30 October 1996 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Any inquiry concerning this communication should be directed to Heather Bakalyar at telephone number (703)305-7143.

The examiner can normally be reached on Monday through Friday from 9:00 am to 5:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

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Art Unit: 1818

Donald E. Adams, Ph.D., can be reached on (703) 308-0570. The fax phone number for this Group is (703)305-7939.

8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 1800 receptionist whose telephone number is (703)308-0196.

Heather Bakalyar, Ph.D.

11/19/96

DONALD E. ADAMS
SUPERVISORY PATENT EXAMINER